FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

Second Appeal No. 431/2005

Appeal	District :
Application No.	of 200
Writ petition	

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : Smt. V. A. Naik, J.
DATED : March 12, 2007.

Heard Mrs. Mahajan for the appellants, and Shri Somalwar for the respondent.

The appellants are the original defendants. A suit was filed by the plaintiff'/respondent for a declaration that the suit site belongs to the plaintiff and the defendants may be restrained from obstructing the plaintiff from making construction over the suit site. The suit was dismissed by the trial Court. The appellate Court re-appreciated the evidence tendered by the parties on record and recorded a finding that the trial Court was not justified in dismissing the suit filed by the plaintiff. The appellate Court held that the trial Court was duty bound to accept the Commissioner's report which, in clear terms, proves the case of the plaintiff. The appellate Court further held that the plaintiff had proved that the construction on 8' land and vacant land of 3' were the part of the property

purchased by him in the year 1947. The appellate Court consequently granted a decree in favour of the plaintiff.

The findings recorded by the appellate Court are based on the proper appreciation of the evidence tendered by the parties on record. The findings are pure findings of fact which do not give rise to any substantial question of law. Second appeal is, therefore, dismissed with no order as to costs.

JUDGE

RMP